

**FILED**

AUG 15 2013

Clerk, U.S. District Court  
District of Montana  
Missoula

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RICHARD WALKER CUMMINS, V,

Defendant.

CR-11-86-BLG-DWM

ORDER ADOPTING  
FINDINGS AND  
RECOMMENDATIONS OF  
U.S. MAGISTRATE JUDGE

On July 19, 2013, United States Magistrate Judge Carolyn S. Ostby entered Findings and Recommendation with respect to the July 10, 2013 petition for revocation of Cummins' supervised release. Docs. 51 & 58. Although the parties were notified of their right to file objections to the Findings and Recommendations within 14 days, neither party filed objections. Failure to object waives the right to review. Fed.R.Crim.P. 59(b)(2). But consistent with this Court's "full authority" to review the Findings and Recommendations under any standard it deems appropriate, *Thomas v. Arn*, 474 U.S. 140, 154 (1985) this Court

reviews for clear error. Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Based on Cummins’ admissions to violating (1) Special Condition Number 3 on six occasions by failing to appear for scheduled sex offender treatment; (2) Special Condition Number 2 on two occasions by, failing to appear for scheduled substance abuse treatment; and (3) Special Condition Number 1 on three occasions by failing to appear for random urinalysis testing, Judge Ostby recommends supervised release be revoked. Judge Ostby further recommends this Court sentence Cummins to 5 months incarceration, followed by 55 months supervised release.

I find no clear error in Judge Ostby’s Findings and Recommendation (doc. 58) and I adopt them in full.

Accordingly, IT IS ORDERED that Richard Walker Cummins’ supervised release is revoked. Judgment will be entered by separate document.

Dated this 15<sup>th</sup> day of August, 2013.



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DONALD W. MOLLOY  
U.S. DISTRICT COURT JUDGE